

41-4-1. Agreements to finance through designated source which lessen competition or create monopoly declared void.

It shall be unlawful for any person who is engaged, either directly or indirectly, in the manufacture or distribution of motor vehicles, to sell or enter into a contract to sell motor vehicles, whether patented or unpatented, to any person who is engaged or intends to engage in the business of selling such motor vehicles at retail in this state, on the condition or with an agreement or understanding, either express or implied, that such person so engaged in selling motor vehicles at retail shall in any manner finance the purchase or sale of any one or number of motor vehicles only with or through a designated person or class of persons or shall sell and assign the conditional sales contracts, chattel mortgages or leases arising from the sale of motor vehicles or any one or number thereof only to a designated person or class of persons, when the effect of the condition, agreement or understanding so entered into may be to lessen or eliminate competition, or create or tend to create a monopoly in the person or class of persons who are designated, by virtue of such condition, agreement or understanding to finance the purchase or sale of motor vehicles or to purchase such conditional sales contracts, chattel mortgages or leases, and any such condition, agreement or understanding is hereby declared to be void and against the public policy of this state.

No Change Since 1953

41-4-2. Threat to discontinue sales to retail seller prima facie evidence of violation.

Any threat, expressed or implied, made directly or indirectly to any person engaged in the business of selling motor vehicles at retail in this state by any person engaged, either directly or indirectly, in the manufacture or distribution of motor vehicles, that such person will discontinue or cease to sell, or refuse to enter into a contract to sell, or will terminate a contract to sell motor vehicles, whether patented or unpatented, to such person who is so engaged in the business of selling motor vehicles at retail, unless such person finances the purchase or sale of any one or number of motor vehicles only with or through a designated person or class of persons or sells and assigns the conditional sales contracts, chattel mortgages or leases arising from his retail sales of motor vehicles or any one or number thereof only to a designated person or class of persons shall be prima facie evidence of the fact that such person so engaged in the manufacture or distribution of motor vehicles has sold or intends to sell the same on the condition or with the agreement or understanding prohibited in Section 41-4-1.

No Change Since 1953

41-4-3. Threat to discontinue sales to person engaged in business of financing who is affiliated with manufacturer or distributor.

Any threat, expressed or implied, made directly or indirectly, to any person engaged in the business of selling motor vehicles at retail in this state by any person, or any agent of any such person, who is engaged in the business of financing the purchase or sale of motor vehicles or of buying conditional sales contracts, chattel

mortgages or leases on motor vehicles in this state and is affiliated with or controlled by any person engaged, directly or indirectly, in the manufacture or distribution of motor vehicles, that such person so engaged in such manufacture or distribution shall terminate his contract with or cease to sell motor vehicles to such person engaged in the sale of motor vehicles at retail in this state unless such person finances the purchase or sale of any one or number of motor vehicles only or through a designated person or class of persons or sells and assigns the conditional sales contracts, chattel mortgages, or leases arising from his retail sale of motor vehicles or any one or any number thereof only to such person so engaged in financing the purchase or sale of motor vehicles or in buying conditional sales contracts, chattel mortgages or leases on motor vehicles, shall be presumed to be made at the direction of and with the authority of such person so engaged in such manufacture or distribution of motor vehicles, and shall be prima facie evidence of the fact that such person so engaged in the manufacture or distribution of motor vehicles has sold or intends to sell the same on the condition or with the agreement or understanding prohibited in Section 41-4-1.

No Change Since 1953

41-4-4. Giving of gratuity by manufacturer or wholesaler to one financing sales which lessens competition, unlawful.

It shall be unlawful for any person who is engaged, directly or indirectly, in the manufacture or wholesale distribution only of motor vehicles, whether patented or unpatented, to pay or give, or contract to pay or give any thing or service of value to any person who is engaged in the business of financing the purchase or sale of motor vehicles or of buying conditional sales contracts, chattel mortgages or leases on motor vehicles sold at retail within this state if the effect of any such payment or the giving of any such thing or service of value may be to lessen or eliminate competition, or tend to create or create a monopoly in the person or class of persons who receive or accept such thing or service of value.

No Change Since 1953

41-4-5. Unlawful for person financing sales to accept gratuity.

It shall be unlawful for any person who is engaged in the business of financing the purchase or sale of motor vehicles or of buying conditional sales contracts, chattel mortgages or leases on motor vehicles sold at retail within this state to accept or receive, or contract or agree to accept or receive, either directly or indirectly, any payment, thing, or service of value from any person who is engaged, either directly or indirectly, in the manufacture or wholesale distribution only of motor vehicles, whether patented or unpatented, if the effect of the acceptance or receipt of any such payment, thing, or service of value may be to lessen or eliminate competition, or to create or tend to create a monopoly in the person who accepts or receives such payment, thing, or service of value, or contracts or agrees to accept or receive the same.

No Change Since 1953

41-4-6. Accepting gratuity, unlawful thereafter to finance sales.

It shall be unlawful for any person who hereafter so accepts or receives, either directly or indirectly, any payment, thing, or service of value, as set forth in Section 41-4-5, or hereafter so contracts, either directly or indirectly, to receive any such payment or thing or service of value to thereafter finance or attempt to finance the purchase or sale of any motor vehicle or buy or attempt to buy any conditional sales contracts, chattel mortgages or leases on motor vehicles sold at retail in this state.

No Change Since 1953

41-4-7. Violation by corporation -- Penalty.

For a violation of any of the provisions of this act by any corporation or association mentioned herein, it shall be the duty of the attorney general or the district attorney of the proper county, to institute proper suits or quo warranto proceedings in any court of competent jurisdiction for the forfeiture of its charter rights, franchises or privileges and powers exercised by such corporation or association, and for the dissolution of the same under the general statutes of the state.

No Change Since 1953

41-4-8. Violation by foreign corporation -- Penalty.

Every foreign corporation, as well as every foreign association, exercising any of the powers, franchises, or functions of a corporation in this state, violating any of the provisions of this act, is hereby denied the right and prohibited from doing any business in this state, and it shall be the duty of the attorney general to enforce this provision by bringing proper proceedings by injunction or otherwise. The Division of Corporations and Commercial Code shall be authorized to revoke the license of any such corporation or association heretofore authorized by it to do business in this state.

Amended by Chapter 66, 1984 General Session

41-4-9. Persons violating provisions -- Penalty.

Any person who violates any of the provisions of this act, any person who is a party to any agreement or understanding, or to any contract prescribing any condition prohibited by this act, and any employee, agent or officer of any such person who shall participate, in any manner, in making, executing, enforcing, performing or in urging, aiding or abetting in the performance of any such contract, condition, agreement or understanding and any person who pays or gives or contracts to pay or give any thing or service of value prohibited by this act, and any person who receives or accepts or contracts to receive or accept any thing or service of value prohibited by this act, shall be deemed guilty of a felony and upon conviction thereof shall be punished by a fine of not less than \$50 nor more than \$5,000, or be imprisoned not less than six months nor more than one year, or by both such fine and imprisonment. Each day's violation of this provision shall constitute a separate offense.

No Change Since 1953

41-4-10. Agreements in violation of provisions are void.

Any contract or agreement in violation of the provisions of this act, shall be absolutely void and shall not be enforceable either in law or equity.

No Change Since 1953

41-4-11. Provisions cumulative.

The provisions hereof shall be held cumulative of each other and of all other laws in any way affecting them now in force in this state.

No Change Since 1953

41-4-12. Actions for damages.

In addition to the criminal and civil penalties herein provided, any person who is injured in his business or property by any other person or corporation or association or partnership, by reason of anything forbidden or declared to be unlawful by this act, may sue therefor in any court having jurisdiction thereof in the county where the defendant resides or is found, or any agent resides or is found, or where service may be obtained, without respect to the amount in controversy, and to recover twofold the damages by him sustained, and the costs of suit. Whenever it shall appear to the court before which any proceeding under this act is pending, that the ends of justice require that other parties shall be brought before the court, the court may cause them to be made parties defendant and summoned, whether they reside in the county where such action is pending, or not.

No Change Since 1953

41-4-13. Definitions.

(a) The term "person," as used in this act, means any individual, firm, corporation, partnership, association, trustee, receiver or assignee for the benefit of creditors.

(b) The terms "sell," "sold," "buy," and "purchase," as used in this act, include exchange, barter, gift, and offer or contract to sell or buy.

No Change Since 1953

41-4-14. Separability clause.

If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

No Change Since 1953